

## **REMARKS**

The Applicants respectfully request reconsideration in view of the following remarks and amendments. Claims 1, 4, 5, 8 and 9 have been amended. No claims have been added. Claims 3, 7, 11 and 16-25 have been previously cancelled. Claims 2, 6, and 10 have been cancelled herein. Accordingly, claims 1, 4-5, 8-9, and 12-15 are pending in the Application.

### **I. Claims Rejected Under 35 U.S.C. § 103**

Claims 1, 2, 4-6, 8-10 and 12-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over “Using XML Schemas to Create and Encode Interactive 3-D Audio Scenes for Multimedia and Virtual Reality Applications” by Potard et al. (“Potard”) in view of “Proceedings of the 2003 International Conference on Auditory Display” by Pihkala et al. (“Pihkala”) for the reasons indicated at pages 2-7 of the Final Office Action.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

In regards to the rejection of independent claims 1, 5, and 9 under 35 U.S.C. § 103, these claims have been amended to incorporate the elements of claim 2, 6, and 10 respectively to recite “wherein the spatiality extension information of the sound source includes sound source dimension information that is expressed as three components of a set of three-dimensional coordinates” (emphasis added). These amendments are supported, for example, by original claims 2, 6, and 10.

The Examiner cites § 2.5.2 of Potard to allegedly disclose these elements of claims 2 and 7 which are now incorporated in claims 1, 5, and 9. See Office Action, Page 4. This section of Potard discloses moving a sound object (i.e. sound source) in a three-dimensional environment by using three coordinates. See Potard, § 2.5.2. However, this section of Potard does not disclose that the dimensions of the sound source are expressed as three-dimensional coordinates as recited

in amended claims 1, 5, and 9. Although the sound sources in Potard collectively define a three-dimensional sound environment, these sound sources are not disclosed as being three-dimensional and may be one or two dimensional. Therefore, Potard does not disclose using three-dimensional sound sources to define a three-dimensional sound environment. By allowing support for three-dimensional sound sources, amended claims 1, 5, and 9 can provide a more robust sound environment with potentially less total sound sources.

As described above, the cited sections of Potard fail to disclose each element of amended claims 1, 5, and 9. Further, the Applicants have been unable to locate any sections of Potard or Pihkala which disclose these elements of amended claims 1, 5, and 9. Therefore, amended claims 1, 5, and 9 are not obvious in view of the combination of Potard and Pihkala. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 5, and 9 on this basis.

In regard to claims 4, 8, and 12-15, these claims depend from independent claims 1, 5, and 9, respectively, and incorporate the limitations thereof. The Examiner's argument assumes that the combination of Potard and Pihkala disclose all elements of claims 1, 5, and 9 which are incorporated in dependent claims 4, 8, and 12-15. However, as discussed above, the combination of Potard and Pihkala does not disclose all the limitations of amended claims 1, 5, and 9. Therefore, claims 4, 8, and 12-15 are not obvious in view of the combination of Potard and Pihkala. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4, 8, and 12-15 on this basis.

## **II. Additional Amendments to the Claims**

In view of the incorporation of the elements of claims 2, 6, and 10 into claims 1, 5, and 9, claims 2, 6, and 10 have been canceled. Further, in view of the cancellation of claims 2 and 6, claims 4 and 8 have been amended to depend from claims 1 and 6, respectively. The Applicants submit that these amendments do not add new subject matter to the Application. Accordingly, the Applicants respectfully request entry of these amendments.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: \_\_\_\_\_

12/14/09

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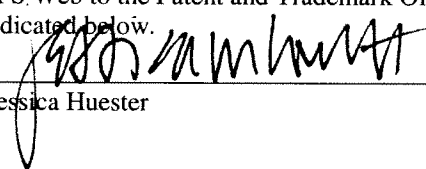
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